

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

HAROLD E. MONTAGUE,

Case No. 2:22-cv-00034-RFB-VCF

Plaintiff,

ORDER

v.

MAINWARNING, et al.,

Defendants.

I. DISCUSSION

Plaintiff initiated this case with an incomplete application to proceed *in forma pauperis* and a civil rights complaint. (ECF Nos. 1, 1-1.) On January 11, 2022, the Court denied Plaintiff's incomplete application to proceed *in forma pauperis* and ordered Plaintiff to file a complete application or pay the full \$402 filing fee, on or before March 11, 2022. (ECF No. 3.) Plaintiff has filed a second incomplete application to proceed *in forma pauperis* (ECF No. 4), as well as a motion for an extension (ECF No. 6). Plaintiff's second incomplete application to proceed *in forma pauperis* is denied.

In his motion requesting an extension, Plaintiff states that although he tried to mail his application to proceed *in forma pauperis*, as well as other documents, to the Northern District of Nevada, law library staff improperly opened his mail and e-filed his documents in the Southern District of Nevada. (*Id.* at 1-2.) Plaintiff states that because his documents should have been filed in the Northern District of Nevada, this delayed his case. (*Id.* at 2.)

As an initial matter, the Court notes that Pursuant to Nevada Local Rule of Practice IA 1-8(a), "[i]n civil actions filed by inmates proceeding pro se, the action must be filed in the unofficial division of the court in which the inmate is held when the complaint or petition is submitted for filing." Plaintiff is currently incarcerated at High Desert State Prison, which is in the unofficial Southern District of Nevada. As such, Plaintiff's documents were properly filed in the unofficial Southern District of Nevada.

Furthermore, pursuant to the District of Nevada's Fifth Amended General Order No. 2012-01 "All NDOC prisoner filings in all federal cases before this Court, including civil rights and habeas corpus cases, must be filed electronically beginning no later than January 1, 2022." As such, Plaintiff's documents must be e-filed, not mailed to the Court.

The Court received Plaintiff's initial application to proceed *in forma pauperis* (ECF No. 1) as well as his second application to proceed *in forma pauperis* (ECF No. 4). However, both applications are incomplete. Because it appears that an extension of the initial deadline and another court order are meaningful alternatives to dismissal here, the Court will grant Plaintiff **one final opportunity** to submit a complete application to proceed *in forma pauperis* or pay the full \$402 filing fee on or before May 29, 2022.

To apply for in forma pauperis status, the inmate must submit all three of the following documents to the Court:

(1) a completed **Application to Proceed in Forma Pauperis for Inmate**, on this Court's approved form (i.e. pages 1 through 3 with the inmate's two signatures on page 3),

(2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official (i.e. page 4 of this Court's approved form), and

(3) a copy of the **inmate's prison or jail trust fund account statement for the previous six-month period**.

II. CONCLUSION

For the foregoing reasons, IT IS ORDERED that that Plaintiff's application to proceed *in forma pauperis* (ECF No. 4) is DENIED.

IT IS FURTHER ORDERED that Plaintiff's motion for an extension to file his application to proceed *in forma pauperis* (ECF No. 6) is GRANTED. On or before **May 29, 2022**, Plaintiff shall either: (1) file a **fully complete** IFP application, on the correct form with complete financial attachments in compliance with 28 U.S.C. § 1915(a); or (2) pay the full \$402 fee for filing a civil action (which includes the \$350 filing fee and the \$52 administrative fee).

1 IT IS FURTHER ORDERED that the Clerk of the Court will send Plaintiff the
2 approved IFP application by an inmate, as well as the document entitled information and
3 instructions for filing an in forma pauperis application

4 IT IS FURTHER ORDERED that, if Plaintiff does not timely comply with this order,
5 this case will be subject to dismissal without prejudice for Plaintiff to refile the case with
6 the Court, under a new case number, when Plaintiff is able to submit a fully complete
7 application to proceed *in forma pauperis* or pay the full \$402 filing fee for a civil action.

8 DATED THIS 30th day of March 2022.

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11 UNITED STATES MAGISTRATE JUDGE
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